

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-CV-509-D

SYNGENTA CROP PROTECTION, LLC,)
)
Plaintiff,)
)
v.)
)
ATTICUS, LLC,)
)
Defendant.)

ORDER

Pursuant to the protective order entered in this case and Section V.G.1(e) of the court’s Electronic Case Filing Administrative Policies and Procedures Manual, Defendant, Atticus, LLC (“Atticus”) filed under provisional seal its third and fourth motions to compel discovery, as well as its memoranda and certain exhibits submitted in support thereof. Atticus also filed notices informing Plaintiff, Syngenta Crop Protection, LLC (“Syngenta”) of its filings. (Notice of Third Mot. Compel [DE #151]; Notice of Fourth Mot. Compel [DE #151]; Notice of Exhibit [DE #152].) On March 31, 2021, Syngenta filed a motion to seal the following:

1. Portions of Atticus’ memorandum in support of its third motion to compel discovery;
2. Exhibits 5, 7-15, and 23 to Atticus’ memorandum in support of its third motion to compel;
3. Atticus’ Fourth motion to compel discovery;
4. Atticus’ memorandum in support of its fourth motion to compel discovery;

5. Declaration of Robert J. Scheffel submitted in support of Atticus' fourth motion to compel, the table of attached exhibits, and exhibits 1, 3, and 6-15 to the declaration; and

6. Syngenta's opposition to Atticus' fourth motion to compel.

(Mot. Seal [DE # 180] at 1.)

Syngenta moves to seal the filed documents on the ground they "contain sensitive business and technical information concerning Syngenta's confidential agreements with third parties and Syngenta's strategies on generic competition, pricing, and evaluating potential illegal azoxystrobin products and potential infringement of and enforcement of its intellectual property." (Mot. Seal at 1.)

For the reasons set forth in Syngenta's motion and supporting memorandum, the court finds that the public's common law right of access is outweighed by Syngenta's interests in protecting against competitive and/or financial harm to it were such information made public. *In re Knight Publ'g Co.*, 743 F.2d 231 (4th Cir. 1984). Public notice of Syngenta's request to seal and a reasonable opportunity to object have been provided by the filing of its motion, and no objections have been filed with the court. Furthermore, Syngenta has narrowly tailored its request to remove only information that is sensitive and confidential and not otherwise publicly known. Syngenta's motion is therefore allowed.

CONCLUSION

For the foregoing reasons, it is hereby ORDERED as follows:

1. Syngenta's Motion to Seal [DE #180] is GRANTED, and the following documents shall be SEALED:

a. Atticus' memorandum in support of its third motion to compel discovery [DE #144]. A redacted version of this filing is attached as Exhibit 1 to the Declaration of Jeff Cecil [DE #181-3];

b. Exhibits 5, 7, 8, 9 to Atticus' memorandum in support of its third motion to compel discovery [DE ##146-3, 146-5, 146-6, 146-7]. Redacted versions of these filings are attached as Exhibits 2, 3, 4, 5 to the Declaration of Jeff Cecil [DE ##181-4, 181-5, 181-6, 181-7];

c. Exhibits 10, 11, 12, 13, 14, 15 to Atticus' memorandum in support of its third motion to compel discovery [DE ##146-8, 146-9, 146-10, 146-11, 146-12, 146-13].

d. Exhibit 23 to Atticus' memorandum in support of its third motion to compel discovery [DE # 146-14]. A redacted version of this filing is attached as Exhibit 6 to the Declaration of Jeff Cecil [DE #181-8];

e. Atticus' fourth motion to compel discovery [DE #148]. A redacted version of this filing is attached as Exhibit 7 to the Declaration of Jeff Cecil [DE #181-9];

f. Atticus' memorandum in support of its fourth motion to compel discovery [DE #149]. A redacted version of this filing is attached as Exhibit 8 to the Declaration of Jeff Cecil [DE #181-10];

g. Declaration of Robert J. Scheffel [DE #150]. A redacted version of this filing is attached as Exhibit 9 to the Declaration of Jeff Cecil [DE #181-11];

h. Table of exhibits to Declaration of Robert J. Scheffel [DE #150-1]. A redacted version of this filing is attached as Exhibit 10 to the Declaration of Jeff Cecil [DE #181-12];

i. Exhibit 1 to Declaration of Robert J. Scheffel (privilege log) [DE #150-2];

j. Exhibit 3 to Declaration of Robert J. Scheffel [DE #150-4]. A redacted version of this filing is attached as Exhibit 3 to the Declaration of Jeff Cecil [DE #181-5];

k. Exhibit 6 to Declaration of Robert J. Scheffel [DE #150-7]. A redacted version of this filing is attached as Exhibit 11 to the Declaration of Jeff Cecil [DE #181-13];

l. Exhibit 7 to Declaration of Robert J. Scheffel [DE #150-8]. A redacted version of this filing is attached as Exhibit 12 to the Declaration of Jeff Cecil [DE #181-14];

m. Exhibits 8, 9, 10, 11 to Declaration of Robert J. Scheffel [DE ##150-9, 150-10, 150-11, 150-12];

n. Exhibit 12 to Declaration of Robert J. Scheffel [DE #150-13]. A redacted version of this filing is attached as Exhibit 13 to the Declaration of Jeff Cecil [DE #181-15];

o. Exhibits 13, 14, 15 to Declaration of Robert J. Scheffel [DE ## 150-14, 150-15, 150-16]; and

p. Syngenta's response in opposition to Atticus' fourth motion to compel [DE #176]. A redacted version of this filing is attached as Exhibit 14 to the Declaration of Jeff Cecil [DE #181-16].

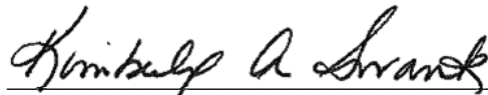
2. The clerk is directed to UNSEAL the following provisionally sealed documents unless a motion to seal is filed by within seven (7) days of the date this order is entered:

a. Atticus' third motion to compel discovery [DE #143];

b. Exhibits 3, 4, and 6 to Declaration of Robert J. Scheffel [DE ##146-1, 146-2, 146-4].

c. Exhibits 2, 4, 5, 16 to Declaration of Robert J. Scheffel [DE ## 150-3, 150-5, 150-6, 150-17].

This 26th day of June 2021.



KIMBERLY A. SWANK
United States Magistrate Judge